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HOUSE BILL 913

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Raymond M. Ruiz

AN ACT

RELATING TO PROCUREMENT FOR PUBLIC WORKS PROJECTS; REQUIRING
THAT A CONSTRUCTION MANAGER BE UTILIZED FOR CERTAIN PROJECTS
FOR THE CONSTRUCTION OF BUILDINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-1-99 NMSA 1978 (being Laws 1984,
Chapter 65, Section 72, as amended) is amended to read:

"13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE
STATE PURCHASING AGENT. -- Excluded from the requirement of
procurement through the state purchasing agent but not from the
requirements of the Procurement Code are the following:

A. procurement of professional services, except for
construction management services required by the provisions of
Section 13-1-100.2 NMSA 1978;

B. small purchases having a value not exceeding one

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1 thousand five hundred dollars (\$1,500);

2 C. emergency procurement;

3 D. procurement of highway construction or
4 reconstruction by the state highway and transportation
5 department;

6 E. procurement by the judicial branch of state
7 government;

8 F. procurement by the legislative branch of state
9 government;

10 G. procurement by the boards of regents of state
11 educational institutions named in Article 12, Section 11 of the
12 constitution of New Mexico;

13 H. procurement by the state fair commission of
14 tangible personal property, services and construction under
15 five thousand dollars (\$5,000);

16 I. purchases from the instructional material fund;

17 J. procurement by all local public bodies;

18 K. procurement by regional education cooperatives;

19 L. procurement by charter schools; and

20 M. procurement by each state health care
21 institution that provides direct patient care and that is, or a
22 part of which is, medicaid certified and participating in the
23 New Mexico medicaid program."

24 Section 2. Section 13-1-100.1 NMSA 1978 (being Laws 1997,
25 Chapter 171, Section 3) is amended to read:

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1 "13-1-100.1. CONSTRUCTION CONTRACTS-- CONSTRUCTION
2 MANAGEMENT SERVICES. --

3 A. Unless a construction management services
4 contract is required pursuant to Section 13-1-100.2 NMSA 1978,
5 a construction management services contract may be entered into
6 for any construction or state or local public works project
7 when a state agency or local public body makes a determination
8 that it is in the public's interest to utilize construction
9 management services. Construction management services shall
10 not duplicate and are in addition to the normal scope of
11 separate architect or engineer contracts, the need for which
12 may arise due to the complexity or unusual requirements of a
13 project as requested by a state agency or local public body.

14 B. To [~~insure~~] ensure fair, uniform, clear and
15 effective procedures that will strive for the delivery of a
16 quality project, on time and within budget, the secretary, in
17 conjunction with the appropriate and affected professional
18 associations and contractors, shall promulgate regulations,
19 which shall be adopted by the governing bodies of all using
20 agencies and shall be followed by all using agencies when
21 procuring construction management services as authorized in
22 Subsection A of this section.

23 C. Except as provided in Section 13-1-100.2 NMSA
24 1978, a state agency shall make the decision on a construction
25 management services contract for a state public works project,

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1 and a local public body shall make that decision for a local
2 public works project. Except as provided in Section 13-1-100.2
3 NMSA 1978, a state agency shall not make the decision on a
4 construction management services contract for a local public
5 works project. "

6 Section 3. A new section of the Procurement Code, Section
7 13-1-100.2 NMSA 1978, is enacted to read:

8 "13-1-100.2. [NEW MATERIAL] CONSTRUCTION MANAGEMENT
9 SERVICES REQUIRED--CERTAIN BUILDING CONSTRUCTION PROJECTS. --

10 A. Unless excluded pursuant to Subsection C of this
11 section, no contract for the construction of a building shall
12 be entered into by the state or a local public body unless a
13 separate contract for construction management services with an
14 independent construction manager is also entered into. The
15 construction manager shall be the agent of the using agency and
16 of the state or the local public body in monitoring the
17 construction project for the purpose of controlling the time,
18 cost and quality of the project. The costs of the construction
19 manager shall be paid from the funds available to the using
20 agency for the project.

21 B. Except as provided in Subsection D of this
22 section, the state purchasing agent shall, pursuant to the
23 provisions of the Procurement Code, select a construction
24 manager for each project subject to the provisions of this
25 section.

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